

Message Text

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ACTION EUR-25

INFO OCT-01 ADP-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

L-03 SS-15 NSC-10 CIAE-00 INR-10 NSAE-00 RSC-01 CU-04

COME-00 TRSE-00 EB-11 LS-01 RSR-01 /082 W

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O 151338 Z JUN 73

FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC IMMEDIATE 9664

LIMITED OFFICIAL USE SECTION 1 OF 2 MOSCOW 7072

E. O. 11652: N/ A

TAGS: EFIN UR

SUBJ: US- USSR TAX TREATY

REF: A) STATE 112135 B) STATE 111586

1. WE HAVE RECEIVED COPY OF LETTER DATED JUNE 13 FROM MAL' KEVICH TO NATHAN GORDON RESPONDING TO CHANGES IN TAX CONVENTION PROPOSED REF B. TO EXPEDITE REVIEW OF HIS RESPONSE, MAL' KEVICH HAS PROVIDED UNOFFICIAL ENGLISH TRANSLATION OF HIS LETTER. FOLLOWING IS ENGLISH TEXT OF MAL' KEVICH LETTER; TRANSLITERATION OF RUSSIAN- LANGUAGE VERSION OF EACH PROPOSED MODIFICATION TO TEXT OF TREATY AND COVERING LETTER IS GIVEN IN SLASHES.

2. BEGIN TEXT: DEAR MR. GORDON,

HQE CONFIRM WITH TANKS THE RECEIPT OF YOUR LETTER DATED 11 JUNE 1973.

WE UNDERSTAND THAT THE INDICATED MODIFICATIONS DO NOT CHANGE THE UNDERSTANDING REACHED WHILE PREPARING THE DRAFT TEXT OF THE CONVENTION IN WASHINGTON, D. C., LAST MAY.

YOUR PROPOSALS ARE ACCEPTABLE IN PRINCIPLE.
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1. IN OUR OPINION IT WOULD BE NECESSARY TO INSERT THE AMENDED INTERPRETATION OF AN INDEPENDENT BROKER, COMMISSION AGENT OR ANY OTHER AGENT (ARTICLE III, SUBPARA I(E)) IN THE TEXT OF THE LETTER OF EXCHANGE, SETTING IT FORTH IN THE FOLLOWING WAY:

" BY A BROKER, COMMISSION AGENT OR ANY OTHER AGENT OF INDEPENDENT STATUS OPERATING IN THE USA, ONE CAN UNDERSTAND A PERSON, HAVING HIS RESIDENCE IN THE USA, WHOSE ACTIVITIES DO NOT DEPEND ON THE FOREIGN TRADE ORGANIZATIONS OF THE OTHER CONTRACTING STATE". /" POD BROKEROM, KOMISSIONEROM I LYUBYM DRUGIM AGENTOM S NEZAVISIMYM STATUSOM, DEYSTUYUSHOHIMI V SSHA, PONIMAETSYA LITSO S POSTOYANNYM MESTOPREBYVANIEM V SSHA, DEYATEL' NOST' KOTOROGO NE ZAVISIT OT DRUGOGO DOGOVARIVAYUSHCHEGOSYA GOSUDARSTVA."/

AS TO ADDING TO ARTICLE X THE PROVISION " ON NON-DISCRIMINATION," / " O NEDISKRIMINATSII" IT WOULD BE EXPEDIENT TO GIVE THIS INTERPRETATION IN THE TEXT OF THE LETTER IN THE FOLLOWING WORDS:

" IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE X IT IS UNDERSTOOD THAT A CITIZEN OF ONE CONTRACTING STATE OR A REPRESENTATION ESTABLISHED BY A RESIDENT OF THIS CONTRACTING STATE SHALL NOT BE SUBJECTED IN THE OTHER CONTRACTING STATE TO HIGHER TAXES THAN ARE GENERALLY IMPOSED ON CITIZENS OR REPRESENTATIONS OF A THIRD COUNTRY CARRYING ON THE S
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INFO OCT-01 ADP-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

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COME-00 TRSE-00 EB-11 LS-01 RSR-01 /082 W
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3) IN ARTICLE IV. IT IS PROPOSED TO SET FORTH PARA 1

OF THIS ARTICLE IN A POSITIVE LANGUAGE: " INCOME FROM COMMERCIAL ACTIVITY EXTRACTED IN ONE CONTRACTING STATE BY A PERSON, HAVING HIS RESIDENCE IN THE OTHER CONTRACTING STATE, IS TAXABLE IN THE FIRST CONTRACTING STATE, IF IT IS EXTRACTED THROUGH A REPRESENTATION". /" DOKHODY OT KOMMERCHESKOY DEYATEL' NOSTI, IZVLEKAYEMYE V ODNOM DOGOVARIVAYUSHCHEMCYA GOSUDARSTVE LITSOM S POSTOYANNYM MESTOPREBYVANIEM V DRUGOM DOGOVARIVAYUSHCHEMCYA GOSUDARSTVE, OBLAGAYUTSYA NALOGAMI V PERVOM DOGOVARIVAYUSHCHEMSYA GOSUDARSTVE, ESLI ONI IZVLEKAYUTSYA CHEREZ PREDSTAVITEL' STVO."/

IN SUBPARA 2(A) OF THIS ARTICLE, PROCEEDING FROM THE TERMINOLOGY ADOPTED IN SOVIET LEGISLATION, IT IS PROPOSED AFTER THE WORDS " IN THE TERRITORY OF THE USSR" /" NA TERRITORII SSSR"/ TO WRITE DOWN THE PHRASE "- OFFICE, BUREAU (BEGIN UNDERLINE) OR ANY OTHER REPRESENTATION (END UNDERLINE)" /"- KONTORU, BYURO (BEGIN UNDERLINE) ILI INOYE PREDSTAVITEL' STVO (END UNDERLINE)"/, AND THEN ACCORDING TO THE TEXT. WITH A VIEW TO A GREATER PARITY IN THE WORDINGS IT IS PROPOSED TO INSERT RESPECTIVELY IN SUBPARA 2(B) OF THIS ARTICLE " OFFICE, (BEGIN UNDERLINE) REPRESENTATION (END UNDERLINE) OR OTHER PLACE OF ACTIVITY" /" KONTORU, (BEGIN UNDERLINE) PREDSTAVITEL' STVO (END UNDERLIMITED OFFICIAL USE LIMITED OFFICIAL USE

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LINE) ILI DRUGOYE MESTO DEYATEL' NOSTI"/, AND THEN ACCORDING TO THE TEXT.

4. IN ARTICLE VI. IT IS PROPOSED IN SUBPARA 3(B) OF THIS ARTICLE, WITH THE PURPOSE TO ABVIAE A POSSIBLE MISINTERPRETATION, TO INSERT AFTER THE WORDS "... IN RESPECT OF THE REMUNERATION" /"... V OTNOSHENII VOZNAGRAZHDENIYA"/ THE FOLLOWING PHRASE: " RECEIVED (BEGIN UNDERLINE) FROM THE SOURCES IN THE TERRITORY (END UNDERLINE) OF THE FIRST CONTRACTING STATE OR FROM THE SOURCES IN THE TERRITORY OF THE OTHER CONTRACTING STATE". /" POLUCHAYEMOGO (BEGIN UNDERLINE) IZ ISTOCHNIKOV NA TERRITORII (END UNDERLINE) PЕРVOGO DOGOVARIVAYUSHCHEGOSYA GOSUDARSTVA ILI IZ ISTOCHNIKOV NA TERRITORII DRUGOGO DOGOVARIVAYUSHCHEGOSYA GOSUDARSTVA."/

BESIDES, THE FOLLOWING AMENDMENTS OF A LANGUAGE NATURE ARE TO BE MADE IN THE RUSSIAN- LANGUAGE TEXT OF THE DRAFT CONVENTION (THEY DO NOT AFFECT THE ENGLISH- LANGUAGE TEXT) :

1(THE END OF PARA 2, ARTICLE I, IS SET FORTH IN THE FOLLOWING WORDING: "... WHICH WILL BE IMPOSED ADDITIONALLY TO THE EXISTING TAXES AND CHARGES, OR INSTEAD OF THEM AFTER THE SIGNING OF THIS CONVENTION". /"... KOTORYYE BUDUT VZIMAT' SYA V DOPOLNENIYE K SUSHCHESTVUYUSHCHIM NALOGAM I

SBORAM LIBO VMESTO NIKH POSLE PODPISANIYA NASTOYASHCHEY
KONVENTSII."/

2) IN PARA 2, ARTICLE II, THE CONJUNCTION " A" IS
REPLACED BY " I".

3) IN SUBPARA III (A), ARTICLE II, THE WORD
" OBRAZOVANNUYU" IS REPLACED BY THE WORD
" OBRAZOVANNYYE".

4) IN SUBPARA 4(A), ARTICLE II, THE PHRASE
" SOZDANNUYU ILI ORGANIZOVANNUYU" IS REPLACED BY THE PHRASE
" SOZDANNYYE ILI ORGANIZOVANNYYE."

5) THE SUBPARA 1/ A), ARTICLE III, THE PHRASE
" KOMP' YUTERNYYE PROGRAMMY" IS REPLACED BY THE PHRASE
" PROGRAMMY ELEKTRONNO- VYCHI- SLITEL' NYKH MASHIN RAZLICHNYKH
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VIDOV". BESIDES, THE PHRASE " KNOW- HOW" /" NOU- KHAU"/
IN THIS PARAGRAPH IS PUT IN QUOTATION MARKS.

6) IN SUBPARA 1(A), ARTICLE VI, INSTEAD OF THE PHRASE
" V ETOM DRUGOM DOGOVARIVAYUSHCHEMSYA GOSUDARSTVE" THERE
WILL BE A " V DRUGOM DOGOVARIVAYUSHCHEMSYA GOSUDARSTVE...".

7) THE SIGNATURES AT THE END OF THE TEXT: INSTEAD OF
" ON BEHALF OF" /" PO UPOLNOMOCHIYU "/ THERE WILL BE " FOR"
/" ZA"/.

8) ON THE DRAFT TEXT OF THE LETTER: IN PARA I IT IS
PROPOSED TO WRITE DOWN AT THE BEGINNING OF THE FIRST
PHRASE... " BROKER, COMMISSION AGENT (BEGIN UNDERLINE) OR
OTHER AGENT (END UNDERLINE)" /" BROKERA, KOMMISSIONERA (BEGIN
UNDERLINE) ILI DRUGOGO AGENTA (END UNDERLINE)"/... AT THE
END OF THE SECOND PHRASE ALSO - " BROKER, COMMISSION AGENT
OR AGENT" /" BROKERA, KOMMISSIONERA ILI AGENTA"/, I. E. TO
BRING THE TEXT IN LINE WITH THE WORDING OF SUBPARA 1(E),
ARTICLE III.

ACCEPT, PLEASE, MR GODON THE ASSURANCES OF MY HIGH
CONSIDERATION. SINCERELY YOURS, V. L. MAL' KEVICH, CHIEF OF
THE TECHNICAL DEPARTMENT, USSR MINISTRY OF FOREIGN TRADE,
MOSCOW, JUNE 1973. END TEXT.

3. RUSSIAN TEXT OF MODIFICATIONS ACCEPTED IN NUMBERED
PARA 2 OF ABOVE LETTER NOT AVAILABL HERE BUT, ACCORDING
TO MAL' KEVICH, MAY BE OBTAINED FROM YE. K. MEDVEDEV,
DEPUTY CHIEF MFT TREATY AND LEGAL ADMINISTRATION, WHO
LFT FOR WASHINGTON JUNE 13 AN IS PRESUMABLY ALREADY IN
TOUCH WITH GORDON.

DUBS

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*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 15 JUN 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973MOSCOW07072
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: MOSCOW
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730619/aaaajaop.tel
Line Count: 229
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 73 STATE 112135, 73 STATE 111586
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags: ANOMALY
Review Date: 26 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26-Sep-2001 by martinml>; APPROVED <30-Nov-2001 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 980206
Subject: US- USSR TAX TREATY
TAGS: EFIN, UR
To: EUR
SECSTATE WASHDC
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005